

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
RICHARD H. LIVINGSTON,**

Plaintiff,

**9:19-cv-353
(GLS/ML)**

v.

WILLIAM HOFFNAGLE et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

RICHARD H. LIVINGSTON

Pro Se

06001450

Onondaga County Correctional Facility
6660 E. Seneca Turnpike
Jamesville, NY 13078

and

RICHARD H. LIVINGSTON
326 N. Beech Street
Syracuse, NY 13203

FOR DEFENDANTS:

HON. LETITIA JAMES
New York State Attorney General
The Capitol
Albany, NY 12224

CHRISTOPHER J. HUMMEL
Assistant Attorney General

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following a Report-

Recommendation & Order (R&R) by Magistrate Judge Christian F. Hummel, duly filed August 3, 2021. (Dkt. No. 39.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the R&R for clear error, it is hereby

ORDERED that the Report-Recommendation & Order (Dkt. No. 39) is **ADOPTED** in its entirety; and it is further

ORDERED that defendants' motion for summary judgment (Dkt No. 30) is **GRANTED**; and it is further

ORDERED that plaintiff's request for sanctions for spoliation of evidence (Dkt. No. 35 at 5-6) is **DENIED**; and it is further

ORDERED that plaintiff's complaint (Dkt. No. 1) is **DISMISSED**; and it is further

ORDERED that the Clerk close this case; and it is further

ORDERED that the Clerk provide a copy of this Order to the plaintiff at both addresses provided in this order and to defendants in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

August 31 2021
Albany, New York

Daryl L. Sharpe
Daryl L. Sharpe
U.S. District Judge